

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

AUG 21 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISIONJAMES N. HATTEN, Clerk
By: *[Signature]* Deputy ClerkFederal National Mortgage Association
Plaintiff,CIVIL ACTION FILE NO.
Removed from State
Civil Action File No. 12-E-11766

v.

1:12-CV-2898**CAP**Ramon Moreno and/or all other residents,
Defendants.**NOTICE OF REMOVAL**

In accordance with 28 U.S.C. § 1441(b) and 1446, you are hereby notified that Defendant Ramon Moreno is removing this civil action from the Magistrate Court of Cobb County, State of Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, and in support thereof shows this Court the following:

1.

Plaintiff filed a Dispossessory Action against the Defendant Ramon Moreno on July 2, 2012 in the Magistrate Court of Cobb County, State of Georgia, Civil Action File No. 12-E-11766 and styled Federal National Mortgage Association v. Ramon Moreno and/or all other residents. True and correct copies of all process, pleadings and orders served upon Ramon Moreno in said civil action are attached hereto as Exhibit A.

2.

Ramon Moreno was served with the complaint on or about July 27, 2012. This Notice of Removal is filed within 30 days after receipt by Ramon Moreno, through service or otherwise, of the Complaint setting forth the claim for relief upon which this action is based, and, therefore, it is timely within the provisions of 28 U.S.C. §1446(b). To the best knowledge of Ramon Moreno,

no other Defendant has been served with process. Because no other Defendant has been properly served, Ramon Moreno need not obtain consent from any other Defendant in order to remove this action to federal court. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344,350 (1999) (“one becomes a party officially, and is required to take action in that capacity, only upon service of a summons or other authority asserting measure stating the time within which the party served must appear and defend”); *America Resources Inc. CO., Inc. v. Evoleno Co., LLC*, 2007 U.S. Dist. LEXIS 12145 (S.D. Ala Feb. 21, 2007) (“The law is clear, however, that a defendant that has not been served with process need not join in or consent to removal”).

3.

This matter is removable to this Court because there is complete diversity of citizenship between the Plaintiff and the Defendants, and the amount in controversy exceeds \$75,000.00. Upon information and belief, the Plaintiff in this civil action was at the time of the commencement of this action and has been at all times thereafter, through and including the present time, a government-sponsored enterprise domiciled in the District of Columbia. Ramon Moreno was at the time of the commencement of this action and has been at all times thereafter, through and including the present time, a citizen of the State of Georgia, in that Ramon Moreno is currently domiciled in Georgia. The parties, thus, are citizens of different states within the meaning of 28 U.S.C. §1332.

4.

The above-described action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §1332, and one which may be removed to this Court by Defendant therein, pursuant to the provisions of 28 U.S.C. §§1441 and 1446, in that the amount in controversy exceeds \$75,000.00 and all of the properly joined parties are citizens of different

states. Plaintiff also seeks to enforce the foreclosure of the property located at 434 Windstream Drive, Marietta, GA 30060 (the "Property"). Where a plaintiff seeks to enforce a foreclosure, the amount in controversy is the value of the property. *Roper v. Saxon Mortgage Services, Inc.*, 2009 U.S. Dist. LEXIS 37794, *6 (N.D. Ga. May 5, 2009), citing *Waller v. Professional Ins. Corp.*, 296 F.2d 545, 547 (5th Cir. 1961); *Mapp v. Deutsche Bank National Trust Co.*, 2009 U.S. Dist. LEXIS 100912 (M.D. Ala. Oct 28, 2009). The value of the Property exceeds \$75,000.00. Therefore, the amount in controversy exceeds \$75,000.00.

5.

Accordingly, this civil action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. §1446, et seq., and one which may be removed to this Court pursuant to the provision of 28 U.S.C. §§1441 and 1446.

WHEREFORE, Ramon Moreno respectfully requests that the entire action referred to hereinabove proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, and that no further proceeding be held in said case in the Magistrate Court of Cobb County, Georgia.

This 21 day of August, 2012

A handwritten signature in cursive script that reads "Ramon Moreno". The signature is written in black ink and is positioned above a horizontal line.


Ramon Moreno
Defendant Pro Se, Propria Persona
434 Windstream Drive
Marietta, GA 30060

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing Notice to Plaintiff of Filing Notice of Removal by depositing a copy of same in the United States Mail in a properly addressed envelope with sufficient postage affixed thereto to ensure delivery to the following:

Daniel K. Barbegelata
McCurdy & Candler, LLC.
Six Piedmont Center
Suite 700
3525 Piedmont, Road, NE
Atlanta, GA 30305

This 21 of August, 2012


Ramon Moreno
Defendant Pro Se, Propria Persona
434 Windstream Drive
Marietta, GA 30060

PROCEEDING AGAINST TENANT HOLDING OVER

Federal National Mortgage Association
c/o 3525 Piedmont road ne bldg 6 ste 700
Atlanta, GA 30305
678 891-4832

Case No. 12-E-11766

Plaintiff's Name, Address, Phone Number

v.

Ramon Moreno and/or all other residents

434 Windstream Drive
Marietta, Ga 30060

Defendant's Name and Address

1. Defendant is in possession as tenant of premises at the address in Cobb County as stated above.
2. Affiant is the [] Owner; [] Attorney; [] Agent; [] Lessee of said premises.
3. Tenant [] fails to pay the rent which is now due; [] holds the premises over and beyond the term for which they were rented or leased to him; or [] Tenant at sufferance. Failed to vacate after the 6-5-12. Foreclosure.
4. Plaintiff is entitled to recover any and all rent that may come due until this action is finally concluded.
5. Plaintiff desires and has demanded possession of premises.
6. Defendant has failed and refused to deliver possession of premises.

WHEREFORE, Plaintiff demands: (a) possession of premises; (b) past due rent of \$ _____; (c) rent accruing up to date of judgment or vacancy at the rate of \$ _____ per _____; (d) _____

SWORN TO AND SUBSCRIBED BEFORE ME THIS
29th DAY OF _____

Affiant's Address and Phone Number

3525 Piedmont road ne bldg 6 ste 700
Atlanta, GA 30305
678 891-4832

SUMMONS

Daniel K. Barbagelata, GA Bar #714563
Tel. 678-891-1862

TO: THE MARSHAL of the Magistrate Court of Cobb County or his lawful deputies and to the Sheriff of Cobb County or his lawful deputies:

GREETINGS: The defendant(s) herein is/are commanded and required personally (or by attorney) to appear at the Magistrate Court of Cobb County, 32 Wadley Street, Marietta, Georgia between the hours of 8:00 a.m. and 5:00 p.m. on or before the SEVENTH day (or on the first business day thereafter if the seventh day falls on Saturday, Sunday, or legal holiday) from the date of service of the within affidavit and summons to answer the affidavit in writing or orally. If answer is NOT made, a Writ of Possession and/or judgment shall issue instant.

WITNESS the Honorable Judges of this Court.

The affidavit was sworn to and subscribed before the undersigned Deputy Clerk by the Affiant as provided by O.C.G.A. §44-7-50 and summons issued pursuant thereto.

Deputy Clerk, Magistrate Court of Cobb County

Defendant to answer on or before 8-3-12
20 _____

Deputy Marshal

WRIT OF POSSESSION

TO THE MARSHAL OF THE MAGISTRATE COURT OF COBB COUNTY OR HIS LAWFUL DEPUTIES AND TO THE SHERIFF OF SAID COUNTY OR HIS LAWFUL DEPUTIES:

You are hereby commanded to remove said defendant, together with his property thereon, from said house or premises and to deliver full and quiet possession of same to Plaintiff herein.

This _____ day of _____, 20 _____

Tenant ejected _____, 20 _____
D.M.

Judge, Magistrate Court of Gobb County

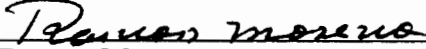
Date of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing Notice to Plaintiff of Filing Notice of Removal by depositing a copy of same in the United States Mail in a properly addressed envelope with sufficient postage affixed thereto to ensure delivery to the following:

Daniel K. Barbegelata
McCurdy & Candler, LLC.
Six Piedmont Center
Suite 700
3525 Piedmont, Road NE
Atlanta, GA 30305

This 2nd of August, 2012



Ramon Moreno
Defendant Pro Se, Propria Persona
434 Windstream Drive
Marietta, GA 30060